

September 23, 2016

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Protecting the Privacy of Customers of Broadband and Other Telecommunications Services, WC Docket No. 16-106

Dear Ms. Dortch:

In comments it filed in this proceeding, Level 3 Communications, LLC called upon the Commission to “exempt the provision of services to wholesale and enterprise [telephone and interconnected VoIP] customers from subpart U of the Commission’s rules in order to give wholesale and enterprise service providers flexibility in how they meet their statutory obligations to protect customer privacy within the framework of the plain language of Section 222 of the Communications Act.”¹ This proposal accounts for the fundamental differences in privacy-related needs and commercial expectations between non-mass-market business customers and individual consumers who purchase mass-market plans. Multiple commenters—including INCOMPAS, the VON Coalition, XO Communications, West Communications, and Verizon Communications—have endorsed this approach.² No commenter in this proceeding has opposed it.

When adopting this widely supported proposal, the Commission could reasonably take the approach of providing that:

- (1) "This subpart [Subpart U] shall not apply to the provision of business services, as such term is defined in [this section].
- (2) "Business services" are telecommunications or interconnected VoIP services that are (i) purchased by a business entity on a non-mass-market basis (e.g., through a tariff), or (ii) otherwise purchased by a business entity or other organization pursuant to an individually negotiated contract."

This approach, which closely tracks the definitions adopted by the Commission in the BIAS context,³ would provide clarity with respect to which regulations apply to a given service. It would also maximize harmonization between the BIAS and voice privacy rules.

¹ Comments of Level 3, LLC, *Protecting the Privacy of Customers of Broadband & Other Telecommunications Servs.*, WC Docket No. 16-106 (filed May 27, 2016). The following citations are all to documents filed in this proceeding.

² Notice of Ex Parte, Level 3, Verizon, and the VON Coalition (filed Aug. 3, 2016); INCOMPAS Notice of Ex Parte (filed Aug. 2, 2016); Reply Comments of West Telecom Services, LLC at 1 (filed July 6, 2016).

³ See 47 CFR § 8.2(a) (including as an element of the definition of BIAS “[a] mass-market retail service by wire or radio”).

Sincerely,

/s/ Maria Kirby
Maria Kirby
Assistant Vice President of Regulatory Affairs
and Associate General Counsel
CTIA
mkirby@ctia.org

/s/ Angie Kronenberg
Angie Kronenberg
Chief Advocate and General Counsel
INCOMPAS
akronenberg@incompas.org

/s/ Nicholas G. Alexander
Nicholas G. Alexander
Associate General Counsel
Level 3 Communications, LLC
Nick.Alexander@level3.com

/s/ Catherine M. Hilke
Catherine M. Hilke
Assistant General Counsel
Verizon
catherine.hilke@verizon.com

cc: Lisa Hone
Daniel Kahn
Brian Hurley
Bakari Middleton
Melissa Kinkel
Heather Hendrickson
Gail Krutov
Brad Bourne